

## **RESOLUTION NO. 2010-124**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING THE TRANSFER OF DEVELOPMENT RIGHTS IN THE NORTH NEWPORT CENTER PLANNED COMMUNITY (PA 2010-122)**

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by the Irvine Company LLC ("Irvine Company"), with respect to property located within the North Newport Center Planned Community requesting approval of a transfer of development rights.
2. The applicant proposes the transfer of 75,878 square feet of general office from Block 100 to San Joaquin Plaza and 45,236 square feet of general office from Block 100 to Block 600. The applicant also proposes the relocation of 430 residential units from San Joaquin Plaza to Block 500.
3. The General Plan Land Use Category for the Block 500, Block 600, and San Joaquin Plaza sub-areas is Mixed Use Horizontal (MU-H3) and for Block 100 is Regional Commercial Office (CO-R).
4. The subject properties are not located within the coastal zone.
5. General Plan Policy LU 6.14.3 permits development rights to be transferred within Newport Center as long as the transfer is consistent with the intent of the General Plan and will not result in any adverse traffic impacts.
6. The North Newport Center Planned Community Development Plan provides that the City Council shall approve a transfer of development rights if it finds that the transfer will result in no more PM peak hour trips and no greater intensity of land use than the development allowed without the transfer.
7. The Zoning Implementation and Public Benefit Agreement (Development Agreement) between the City and Irvine Company LLC dated January 18, 2008, granted the Irvine Company development rights to 430 of the 450 residential units allocated in the General Plan for MU-H3 properties in Newport Center.
8. The North Newport Center Planned Community Development Plan and the Development Agreement permit the development of the 430 residential units within either Block 500, Block 600, or San Joaquin Plaza; however, the traffic study prepared in conjunction with the Development Agreement anticipated the units to be constructed within Block 600.

9. Section 6.3 of the Development Agreement states that should the Irvine Company desire to develop any of the residential units in Newport Center Block 500 or San Joaquin Plaza, compliance with the Traffic Phasing Ordinance is required relative to potential impacts associated with such change in location.
10. A traffic analysis titled *North Newport Center Office Trip No. 4* (Austin-Foust Associates, Inc., October 12, 2010) was prepared for the application for the transfer of development rights in compliance with General Plan Policy LU 6.14.3 and the North Newport Center Planned Community Development Plan.
11. The traffic analysis found that, consistent with General Plan Policy LU 6.14.3 and the North Newport Center Planned Community Development Plan, the transfer of development rights will not result in any adverse traffic impacts.
12. The traffic analysis found that, consistent with Section 6.3 of the Development Agreement, the proposed change in location of the residential units from San Joaquin Plaza to Block 500 does not result in any change to the PM peak hour trip generation (trip neutral) and is not expected to change the resulting trip patterns; therefore, the City Traffic Engineer has determined that the City's Traffic Phasing Ordinance does not require the preparation of a traffic study.
13. The transfer of development rights does not involve a conversion of land uses because the entitlement will remain for general office land use. The transfer will not result in greater intensity than development allowed without the transfer.
14. A public meeting was held on October 26, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Guidelines Section 15369 of the California Environmental Quality Act ("CEQA") defines the term "ministerial" as a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. The transfer of development rights in the North Newport Center Planned Community is a ministerial action under CEQA because it only involves application of fixed standards.

## SECTION 3. FINDINGS.

### THE CITY COUNCIL FINDS THAT:

1. Consistent with General Plan Land Use Policy LU 6.14.3, the transfer is consistent with the intent of the General Plan and the transfer will not result in any adverse traffic impacts.

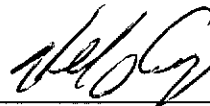
2. Consistent with the North Newport Center Planned Community Development Plan, the transfer will result in no greater intensity of land use and no greater traffic impact than the development allowed without the transfer.
3. Consistent with Section 6.3 of the Development Agreement, the proposed change in location of the residential units from San Joaquin Plaza to Block 500 does not result in any change to the PM peak hour trip generation (trip neutral) and is not expected to change the resulting trip patterns, and does not warrant the preparation of a new traffic study pursuant to the Traffic Phasing Ordinance.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

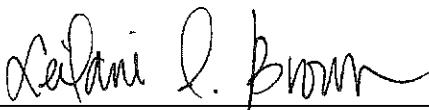
1. The City Council of the City of Newport Beach hereby approves Transfer of Development Rights No. TD2010-001 (PA2010-122).
2. This action shall become final and effective fourteen days after the adoption of this Resolution.

PASSED AND ADOPTED on the 26th day of October, 2010.



MAYOR

ATTEST:



CITY CLERK



STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }           ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2010-124 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of October, 2010, and that the same was so passed and adopted by the following vote, to wit:

Ayes:       Selich, Rosansky, Henn, Webb, Gardner, Daigle

Noes:       None

Absent:     Mayor Curry

Abstain:   None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of October, 2010.



\_\_\_\_\_  
City Clerk  
Newport Beach, California

(Seal)

